



House of Representatives

File No. 822

General Assembly

January Session, 2007

(Reprint of File Nos. 173 and 525)

Substitute House Bill No. 7125
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 11, 2007

**AN ACT CONCERNING UNDERGROUND STORAGE TANKS,
DEMONSTRATION PROJECTS, AQUACULTURE STRUCTURES,
SAND REMOVAL AND INVASIVE PLANTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-449o of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective July 1, 2007*):

3 (a) As used in this section:

4 (1) "Double-walled underground storage tank" means an
5 underground storage tank that is listed by Underwriters Laboratories,
6 Incorporated and that is constructed using two complete shells to
7 provide both primary and secondary containment, and having a
8 continuous three-hundred-sixty degree interstitial space between the
9 two shells which interstitial space shall be continuously monitored
10 using inert gas or liquid, vacuum monitoring, electronic monitoring,
11 mechanical monitoring or any other monitoring method approved in
12 writing by the commissioner before being installed or used;

13 (2) "Double-walled underground storage tank system" means one or

14 more double-walled underground storage tanks connected by double-
15 walled piping and utilizing double-walled piping to connect the
16 underground storage tank to any associated equipment;

17 (3) "Hazardous substance" means a substance defined in Section
18 101(14) of the Comprehensive Environmental Response,
19 Compensation and Liability Act of 1980, but does not include any
20 substance regulated as a hazardous waste under subsection (c) of
21 section 22a-449 or any mixture of such substances and petroleum;

22 (4) "Petroleum" means crude oil, crude oil fractions and refined
23 petroleum fractions, including gasoline, kerosene, heating oils and
24 diesel fuels;

25 (5) "Underground storage tank" means a tank or combination of
26 tanks, including underground pipes connected thereto, used to contain
27 an accumulation of petroleum or hazardous substances, whose volume
28 is ten per cent or more beneath the surface of the ground, including the
29 volume of underground pipes connected thereto; and

30 (6) "Underground storage tank system" means an underground
31 storage tank and any associated ancillary equipment and containment
32 system, including, but not limited to, satellite piping, containment
33 sumps, dispensers and dispenser pans or other comparable
34 underdispenser spill containment.

35 (b) No person or municipality shall install, on or after October 1,
36 2003, an underground storage tank system and no person or
37 municipality shall operate or use, an underground storage tank system
38 installed after October 1, 2003, unless such underground storage tank
39 system is a double-walled underground storage tank system. This
40 section shall not apply to a residential underground storage tank
41 system, as defined in section 22a-449a. On or after January 1, 2008, no
42 person or municipality shall install an underground storage tank
43 system, or operate or use an underground storage tank system
44 installed after January 1, 2008, unless such underground storage tank
45 system is equipped with liquid-tight and vapor-tight sumps with

46 electronic leak detectors and dispenser pans or other comparable
47 underdispenser spill containment with electronic leak detectors. No
48 person or municipality shall have an underground storage tank
49 system's containment sump, dispenser or underdispenser spill
50 containment repaired on or after January 1, 2008, to restore said
51 components to operating condition without equipping said
52 underground storage tank system with liquid-tight and vapor-tight
53 sumps with electronic leak detectors and dispenser pans or other
54 comparable underdispenser spill containment with electronic leak
55 detectors.

56 Sec. 2. (NEW) (*Effective October 1, 2007*) The Commissioner of
57 Environmental Protection may issue a license for a demonstration
58 project for any activity regulated by the commissioner under chapter
59 446d of the general statutes provided the commissioner determines
60 that such demonstration project (1) is necessary to research, develop or
61 promote methods and technologies of solid waste management which
62 are consistent with the goals of the state solid waste management plan;
63 (2) does not pose a significant risk to human health or the
64 environment; and (3) is not inconsistent with the federal Water
65 Pollution Control Act, the federal Rivers and Harbors Act, the federal
66 Clean Air Act or the federal Resource Conservation and Recovery Act.
67 An application for such license shall be on a form prescribed by the
68 commissioner, accompanied by a fee of one thousand dollars and shall
69 provide such information as the commissioner deems necessary. Any
70 person applying for such license shall not commence the project prior
71 to the commissioner's written approval. The commissioner may
72 impose conditions upon such license as deemed necessary to
73 adequately protect human health and the environment or to ensure
74 project success and shall be valid for a period of not more than two
75 years. The commissioner may renew such license provided the total
76 period of licensure does not exceed five years. The commissioner may
77 order summary suspension of any such license in accordance with
78 subsection (c) of section 4-182 of the general statutes. Notwithstanding
79 the renewal process, any person may seek, or the commissioner may

80 require, that the project be sanctioned under a permit pursuant to
81 chapter 446d of the general statutes.

82 Sec. 3. Subdivision (1) of subsection (a) of section 22a-471 of the
83 general statutes is repealed and the following is substituted in lieu
84 thereof (*Effective from passage*):

85 (a) (1) If the commissioner determines that pollution of the
86 groundwaters has occurred or can reasonably be expected to occur and
87 the Commissioner of Public Health determines that the extent of
88 pollution creates or can reasonably be expected to create an
89 unacceptable risk of injury to the health or safety of persons using such
90 groundwaters as a public or private source of water for drinking or
91 other personal or domestic uses, the Commissioner of Environmental
92 Protection shall, as funds from the emergency spill response account
93 established by section 22a-451 allow, arrange for the short-term
94 provision of potable drinking water to those residential buildings and
95 elementary and secondary schools affected by such pollution, or at the
96 commissioner's discretion, to health care, child care or elder care
97 facilities or institutions affected by such pollution until either [he] the
98 commissioner issues an order pursuant to this section requiring the
99 provision of such short-term supply and the recipient complies with
100 such order or a long-term supply of potable drinking water has been
101 provided, whichever is earlier. In determining if pollution creates an
102 unacceptable risk of injury, the Commissioner of Public Health shall
103 balance all relevant and substantive facts and inferences and shall not
104 be limited to a consideration of available statistical analysis but shall
105 consider all of the evidence presented and any factor related to human
106 health risks. The commissioner may issue an order to the person or
107 municipality responsible for such pollution requiring that potable
108 drinking water be provided to all persons affected by such pollution. If
109 the commissioner finds that more than one person or municipality is
110 responsible for such pollution, [he] the commissioner shall attempt to
111 apportion responsibility if [he] the commissioner determines that
112 apportionment is appropriate. If [he] the commissioner does not
113 apportion responsibility, all persons and municipalities responsible for

114 the pollution of the groundwaters shall be jointly and severally
115 responsible for the providing of potable drinking water to persons
116 affected by such pollution. If the commissioner determines that the
117 state or an agency or department of the state is responsible in whole or
118 in part for the pollution of the groundwaters, such agency or
119 department shall prepare or arrange for the preparation of an
120 engineering report and shall provide or arrange for the provision of a
121 long-term potable drinking water supply. If the commissioner is
122 unable to determine the person or municipality responsible or [if he]
123 determines that the responsible persons have no assets other than land,
124 buildings, business machinery or livestock and are unable to secure a
125 loan at a reasonable rate of interest to provide potable drinking water,
126 [he] the commissioner may prepare or arrange for the preparation of
127 an engineering report and provide or arrange for the provision of a
128 long-term potable drinking water supply or [he] may issue an order to
129 the municipality wherein groundwaters unusable for potable drinking
130 water are located requiring that short-term provision of potable
131 drinking water be made to those existing residential buildings and
132 elementary and secondary schools affected by such pollution, or at the
133 commissioner's discretion, to health care, child care or elder care
134 facilities or institutions affected by such pollution and that long-term
135 provision of potable drinking water be made to all persons affected by
136 such pollution. For purposes of this section, "residential building"
137 means any house, apartment, trailer, mobile manufactured home or
138 other structure occupied by individuals as a dwelling, except a non-
139 owner-occupied hotel or motel or a correctional institution.

140 Sec. 4. Subsection (d) of section 22a-361 of the general statutes is
141 repealed and the following is substituted in lieu thereof (*Effective*
142 *October 1, 2007*):

143 (d) (1) The Commissioner of Environmental Protection may issue a
144 general permit for any minor activity regulated under sections 22a-28
145 to 22a-35, inclusive, or sections 22a-359 to 22a-363f, inclusive, if the
146 commissioner determines that such activity would (A) cause minimal
147 environmental effects when conducted separately, (B) cause only

148 minimal cumulative environmental effects, (C) not be inconsistent with
149 the considerations and the public policy set forth in sections 22a-28 to
150 22a-35, inclusive, and section 22a-359, as applicable, (D) be consistent
151 with the policies of the Coastal Management Act, and (E) constitute an
152 acceptable encroachment into public lands and waters. Such activities
153 may include routine minor maintenance and routine minor repair of
154 existing structures, fill, obstructions, encroachments or excavations;
155 substantial maintenance consisting of rebuilding, reconstructing or
156 reestablishing to a preexisting condition and dimension any structure,
157 fill, obstruction, encroachment or excavation; maintenance dredging of
158 areas which have been dredged and continuously maintained as
159 serviceable; activities allowed pursuant to a perimeter permit; the
160 removal of structures, derelict vessels, debris, rubbish or similar
161 discarded material or unauthorized fill material; minor alterations or
162 amendments to authorized activities consistent with the authorization
163 for such activities; activities which have been required or allowed by
164 an order of the commissioner; open water marsh management by or
165 under the supervision of the Department of Public Health or
166 Department of Environmental Protection; conservation activities of or
167 under the supervision or direction of the Department of
168 Environmental Protection; construction of individual residential docks
169 which do not create littoral or riparian conflicts, navigational
170 interference, or adverse impacts to coastal resources as defined by
171 section 22a-93, which are not located in tidal wetlands as defined by
172 section 22a-29 and which extend no further than forty feet waterward
173 of mean high water or to a depth of minus four feet mean low water,
174 whichever point is more landward; installation of scientific measuring
175 or monitoring devices; survey activities including excavation of test
176 pits and core sampling and driving of test pilings; construction of
177 utility lines; aquacultural activities; and installation and removal of
178 small seasonal structures including floats and moorings. Any person
179 conducting an activity for which a general permit has been issued shall
180 not be required to obtain an individual permit or certificate under any
181 other provision of sections 22a-28 to 22a-35, inclusive, or sections 22a-
182 359 to 22a-363f, inclusive, for that activity except as provided in

183 subdivision (3) of this subsection. A general permit shall clearly define
184 the activity covered thereby and may include such conditions and
185 requirements as the commissioner deems appropriate, including, but
186 not limited to, construction timing, methodologies and durations,
187 resource protection practices, management practices, and verification
188 and reporting requirements. The general permit may require any
189 person proposing to conduct any activity under the general permit to
190 register such activity, including obtaining approval from the
191 commissioner, before the general permit becomes effective as to such
192 activity. Registrations and applications for approval under the general
193 permit shall be submitted on forms prescribed by the commissioner.
194 Any approval by the commissioner under a general permit may
195 include conditions specific to the proposed activity to ensure
196 consistency with the requirements for issuance of the general permit.
197 The commissioner shall prepare, and annually amend, a list of holders
198 of general permits under this section, which list shall be made
199 available to the public.

200 (2) Notwithstanding any other procedures specified in sections 22a-
201 28 to 22a-35, inclusive, and sections 22a-359 to 22a-363f, inclusive, any
202 regulations adopted thereunder, and chapter 54, the commissioner
203 may issue a general permit in accordance with the following
204 procedures: (A) The commissioner shall publish in a newspaper
205 having a substantial circulation in the affected area or areas notice of
206 intent to issue a general permit; (B) the commissioner shall allow a
207 comment period of thirty days following publication of such notice
208 during which interested persons may submit written comments
209 concerning the permit to the commissioner and the commissioner shall
210 hold a public hearing if, within said comment period, he receives a
211 petition signed by at least twenty-five persons; (C) the commissioner
212 may not issue the general permit until after the comment period; (D)
213 the commissioner shall publish notice of any permit issued in a
214 newspaper having substantial circulation in the affected area or areas;
215 and (E) summary suspension may be ordered in accordance with
216 subsection (c) of section 4-182. Any person may request that the

217 commissioner issue, modify or revoke a general permit in accordance
218 with this subsection.

219 (3) Subsequent to the issuance of a general permit, the commissioner
220 may require any person whose activity is or may be covered by the
221 general permit to apply for and obtain an individual permit or
222 certificate under the provisions of sections 22a-28 to 22a-35, inclusive,
223 or sections 22a-359 to 22a-363f, inclusive, for all or any portion of the
224 activities covered by the general permit, if the commissioner
225 determines that an individual permit is necessary to assure consistency
226 with purposes and policies of such sections, and the Coastal
227 Management Act. The commissioner may require an individual permit
228 under this subdivision in cases including, but not limited to, the
229 following: (A) The permittee is not in compliance with the conditions
230 of the general permit; (B) an individual permit or certificate is
231 appropriate because of circumstances specific to the site; (C)
232 circumstances have changed since the time the general permit was
233 issued so that the permitted activity is no longer acceptable under the
234 general permit; or (D) a change has occurred in relevant law. The
235 commissioner may require an individual permit or certificate under
236 this section only if the affected person has been notified in writing that
237 an individual permit or certificate is required. The notice shall include
238 a brief statement of the reasons for the decision.

239 (4) The commissioner may adopt regulations, in accordance with the
240 provisions of chapter 54, to carry out the purposes of this section.

241 [(5) Notwithstanding any provision of sections 22a-359 to 22a-363f,
242 inclusive, pending issuance of a general permit for aquaculture
243 activities by the commissioner in accordance with this section, no
244 permit or certificate shall be required for the placement, maintenance
245 or removal of (A) individual structures used for aquaculture, as
246 defined in section 22-416, including, but not limited to, cages or bags,
247 which are located on designated state or municipal shellfish beds
248 which structures create no adverse impacts on coastal resources or
249 navigation over their location or (B) any buoys used to mark such

250 structures. Upon issuance of a general permit for aquaculture activities
251 in accordance with this section, any aquaculture activities shall comply
252 with the terms of such general permit or other applicable provisions of
253 sections 22a-359 to 22a-363f, inclusive.]

254 Sec. 5. Subsection (e) of section 22a-361 of the general statutes is
255 repealed and the following is substituted in lieu thereof (*Effective*
256 *October 1, 2007*):

257 (e) No person, firm or corporation, public, municipal or private,
258 who removes sand, gravel or other material lying waterward of the
259 mean high water mark of the tidal, coastal or navigable waters of the
260 state pursuant to a permit issued under this section on or after October
261 1, 1996, shall make any beneficial or commercial use of such sand,
262 gravel or other material except upon payment to the state of a fee of
263 four dollars per cubic yard of such sand, gravel and other materials
264 unless otherwise exempted from payment under this section. Such
265 payment shall be made at times and under conditions specified by the
266 commissioner in such permit. No fee shall be assessed for (1) the
267 performance of such activities on land which is not owned by the state,
268 (2) the use of sand, gravel or other materials for beach restoration
269 projects, or (3) ultimate disposal of such sand, gravel or other materials
270 which does not result in an economic benefit to any person, and the
271 commissioner may waive the fee for the beneficial or commercial use
272 of sand, gravel or other materials that have been decontaminated or
273 processed to meet applicable environmental standards for reuse. For
274 the purposes of this section, "beneficial or commercial use" includes,
275 but is not limited to, sale or use of sand, gravel or other materials for
276 construction, aggregate, fill or landscaping.

277 Sec. 6. Section 22-84 of the general statutes is repealed and the
278 following is substituted in lieu thereof (*Effective July 1, 2007*):

279 The director of the Connecticut Agricultural Experiment Station
280 shall have charge of all matters pertaining to official control,
281 suppression or extermination of insects or diseases which are, or

282 threaten to become, serious pests of plants of economic importance.
283 [He] Said director shall receive no additional compensation for such
284 work, and may designate members of the station staff to carry out
285 certain lines thereof and may employ such other assistance as may be
286 required. Said director may cooperate with the agents of the United
287 States Department of Agriculture in the control of plant pests; may
288 make regulations and orders regarding the destruction or treatment of
289 infested plants; may seize, treat, disinfect or destroy any plants or
290 plant material moved in violation of any quarantine or regulation
291 established under the provisions of this section or suspected of being
292 infested by any dangerous insect pest or plant disease; may prohibit or
293 regulate the transportation of plants and plant materials, brick, stone
294 and quarry products or any other objects or materials liable to carry
295 dangerous pests and may designate certain areas or districts wherein
296 all such plants may be destroyed. Said director is authorized to
297 promulgate, and to enforce by appropriate regulations, a quarantine
298 prohibiting or restricting the transportation of any class of nursery
299 stock, plant, fruit, seed or other article capable of carrying any
300 dangerous plant disease or insect infestation, with reference to which
301 the Secretary of Agriculture of the United States has not determined
302 that a quarantine is necessary and established such quarantine, into or
303 through this state or any portion thereof from any other state, the
304 District of Columbia or any part of such state or said district in which
305 said director finds such plant disease or insect infestation to exist. Said
306 director is authorized to make regulations for the seizure, inspection,
307 disinfection, destruction or other disposition of any nursery stock,
308 plant, fruit, seed or other article capable of carrying any dangerous
309 plant disease or insect infestation, a quarantine with respect to which
310 has been established by the Secretary of Agriculture of the United
311 States, and which have been transported to, into or through this state
312 in violation of such quarantine. Said director may inspect nurseries
313 and nursery stock, as defined in section 22-97, for any violation of the
314 provisions of section 22a-381d, as amended by this act. Said director
315 may establish and maintain a quarantine against any premises, district,
316 town or group of towns in this state, provided, before any quarantine

317 is established within the state, a public hearing shall be held, of which
318 five days' notice shall be given to the parties affected, either by mail or
319 by publishing such notice in two newspapers having a circulation in
320 the part of the state affected by such quarantine. Said director or any
321 person authorized by him to enforce the provisions of this section may,
322 at any reasonable time, enter any public or private premises in the
323 performance of his duty. Any person aggrieved by any order of
324 quarantine issued under the provisions of this section may appeal to
325 the Superior Court, or to any judge thereof if said court is not in
326 session, and said court or such judge may grant such relief or issue
327 such order or judgment in the premises as to equity may appertain.
328 Any person interfering with any person in the performance of [his]
329 said director's duty under the provisions of this section or violating
330 any quarantine or any regulation established under said provisions
331 shall be fined not less than five dollars nor more than one hundred
332 dollars.

333 Sec. 7. Subsection (e) of section 22-344 of the general statutes is
334 repealed and the following is substituted in lieu thereof (*Effective July*
335 *1, 2007*):

336 (e) The commissioner may, at any time, inspect or cause to be
337 inspected by [his] the commissioner's agents any such commercial
338 kennel, pet shop, grooming facility or training facility, and if, in [his]
339 the commissioner's judgment such kennel, pet shop, grooming facility
340 or training facility is not being maintained in a sanitary and humane
341 manner or in a manner that protects the public safety, or if [he] the
342 commissioner finds that contagious, infectious or communicable
343 disease or other unsatisfactory conditions exist, [he] or, in the case of a
344 pet shop, if the commissioner finds any violation of the provisions of
345 section 22a-381d, as amended by this act, the commissioner may issue
346 such orders as [he] the commissioner deems necessary for the
347 correction of such conditions and may quarantine the premises and
348 animals. If the owner or keeper of such kennel, pet shop, grooming
349 facility or training facility fails to comply with the regulations or
350 orders of the commissioner, or fails to comply with any provision of

351 the statutes or regulations relating to dogs or other animals, the
352 commissioner may revoke or suspend such license. Any person
353 aggrieved by any order issued under the provisions of this section may
354 appeal therefrom in accordance with the provisions of section 4-183.
355 Any person maintaining any commercial kennel, pet shop, grooming
356 facility or training facility without having obtained a license for the
357 same or after any such license has been revoked or suspended as
358 provided herein shall be fined not more than two hundred dollars. The
359 provisions of this section shall not apply to veterinary hospitals, except
360 those boarding or grooming dogs for nonmedical purposes, and other
361 establishments where all the dogs or animals were born and raised on
362 the premises where they are kept for sale.

363 Sec. 8. Section 22a-381d of the general statutes is repealed and the
364 following is substituted in lieu thereof (*Effective July 1, 2007*):

365 (a) Notwithstanding the provisions of any ordinance adopted by a
366 municipality, no person shall [import,] move, except for eradication,
367 research or educational purposes, shall import, sell, purchase,
368 transplant, cultivate, except for research purposes, or shall distribute
369 any of the following invasive plants: (1) Curly leaved Pondweed
370 (*Potamogeton crispus*); (2) fanwort (*Cabomba caroliniana*); (3) eurasian
371 water milfoil (*Myriophyllum spicatum*); (4) variable water milfoil
372 (*Myriophyllum heterophyllum*); (5) water chestnut (*Trapa natans*); (6)
373 egeria (*Egeria densa*); (7) hydrilla (*Hydrilla verticillata*); (8) common
374 barberry (*Berberis vulgaris*); (9) autumn olive (*Elaeagnus umbellata*);
375 (10) Bell's honeysuckle (*Lonicera xbella*); (11) amur honeysuckle
376 (*Lonicera maackii*); (12) Morrow's honeysuckle (*Lonicera morrowii*);
377 (13) common buckthorn (*Rhamnus cathartica*); (14) multiflora rose
378 (*Rosa multiflora*); (15) Oriental bittersweet (*Celastrus orbiculatus*); (16)
379 garlic mustard (*Alliaria petiolata*); (17) narrowleaf bittercress
380 (*Cardamine impatiens*); (18) spotted knapweed (*Centaurea*
381 *biebersteinii*); (19) black swallow-wort (*Cynanchum louiseae*); (20) pale
382 swallow-wort (*Cynanchum rossicum*); (21) leafy spurge (*Euphorbia*
383 *esula*); (22) Dame's rocket (*Hesperis matronalis*); (23) perennial
384 pepperweed (*Lepidium latifolium*); (24) Japanese knotweed

385 (Polygonum cuspidatum); (25) mile-a-minute vine (Polygonum
386 perfoliatum); (26) fig buttercup (Ranunculus ficaria); (27) coltsfoot
387 (Tussilago farfara); (28) Japanese stilt grass (Microstegium vimineum);
388 (29) common reed (Phragmites australis); (30) sycamore maple (Acer
389 pseudoplatanus); (31) princess tree (Paulownia tomentosa); (32) white
390 poplar (Populus alba); (33) false indigo (Amorpha fruticosa); (34)
391 Russian olive (Eleagnus angustifolia); (35) wineberry (Rubus
392 phoenicolasius); (36) kudzu (Pueraria montana); (37) Canada thistle
393 (Cirsium arvense); (38) jimsonweed (Datura stramonium); (39) crested
394 late-summer mint (Elsholtzia ciliata); (40) Cypress spurge (Euphorbia
395 cyparissias); (41) slender snake cotton (Froelichia gracilis); (42) ground
396 ivy (Glechoma hederacea); (43) giant hogweed (Heracleum
397 mantegazzianum); (44) Japanese hops (Humulus japonicus); (45)
398 ornamental jewelweed (Impatiens glanulifera); (46) common kochia
399 (Kochia scoparia); (47) ragged robin (Lychnis flos-cuculi); (48) Scotch
400 thistle (Onopordum acanthium); (49) bristle knotweed (Polygonum
401 caespitosum); (50) giant knotweed (Polygonum sachalinense); (51)
402 sheep sorrel (Rumex acetosella); (52) ragwort (Senecio jacobaea); (53)
403 cup plant (Silphium perfoliatum); (54) bittersweet nightshade
404 (Solanum dulcamara); (55) garden heliotrope (Valeriana officinalis);
405 (56) hairy jointgrass (Arthraxon hispidus); (57) drooping brome-grass
406 (Bromus tectorum); (58) Japanese sedge (Carex kobomugi); (59) reed
407 managrass (Glyceria maxima); (60) Canada bluegrass (Poa compressa);
408 and (61) tree of heaven (Ailanthus altissima).

409 (b) Notwithstanding the provisions of any ordinance adopted by a
410 municipality, no person shall move, except for eradication, research or
411 educational purposes, shall import, sell, purchase, transplant, shall
412 cultivate, except for research purposes, or shall distribute any
413 reproductive portion of any invasive plant listed in subsection (a) or (c)
414 of this section. For the purposes of this subsection, "reproductive
415 portion" includes, but is not limited to, seeds, flowers, roots and
416 tubers.

417 [(b)] (c) Notwithstanding the provisions of any ordinance adopted
418 by a municipality, on or after October 1, 2005, no person shall [import,]

419 move, except for eradication, research or educational purposes, shall
420 import, sell, purchase, transplant, cultivate, except for research
421 purposes, or shall distribute any of the following invasive plants: (1)
422 Purple loosestrife (*Lythrum salicaria*); (2) forget-me-not (*Myosotis*
423 *scorpioides*); (3) Japanese honeysuckle (*Lonicera japonica*); (4)
424 goutweed (*Aegopodium podagraria*); (5) flowering rush (*Butomus*
425 *umbellatus*); (6) pond water-starwort (*Callitriche stagnalis*); (7)
426 European waterclover (*Marsilea quadrifolia*); (8) parrotfeather
427 (*Myriophyllum aquaticum*); (9) brittle water-nymph (*Najas minor*);
428 (10) American water lotus (*Nelumbo lutea*); (11) yellow floating heart
429 (*Nymphoides peltata*); (12) onerow yellowcress (*Rorippa microphylla*);
430 (13) watercress (*Rorippa nasturtium-aquaticum*), except for watercress
431 sold for human consumption without its reproductive structure; (14)
432 giant salvinia (*Salvinia molesta*); (15) yellow iris (*Iris pseudacorus*);
433 [(16) water lettuce (*Pistia stratiotes*); (17)] (16) border privet (*Ligustrum*
434 *obtusifolium*); [(18)] (17) tatarian honeysuckle (*Lonicera tatarica*); [(19)]
435 (18) dwarf honeysuckle (*Lonicera xylosteum*); and [(20)] (19) garden
436 loosestrife (*Lysimachia vulgaris*).

437 [(c)] (d) From [June 26, 2003] July 1, 2007, until October 1, [2005]
438 2012, no municipality shall adopt any ordinance with an effective date
439 prior to October 1, 2011, regarding the retail sale or purchase of any
440 invasive plant.

441 [(d)] (e) Any person who violates the provisions of this section shall
442 have committed an infraction and shall be fined not more than one
443 hundred dollars per plant.

444 Sec. 9. Section 22a-381c of the general statutes is repealed and the
445 following is substituted in lieu thereof (*Effective October 1, 2007*):

446 No state agency, department or institution shall purchase any plant
447 listed as invasive or potentially invasive pursuant to section 22a-381b,
448 provided nothing in this section shall be construed to prohibit such
449 purchase if such purchase is necessary to honor a state contract in
450 effect as of the date any such plant is listed as invasive or potentially

451 invasive pursuant to section 22a-381b. Nothing in this section shall be
452 construed to prohibit any state agency, department or institution, or
453 the agents of such agency, department or institution, from transporting
454 any invasive or potentially invasive plant for educational, [or] research
455 or eradication purposes.

456 Sec. 10. Section 22a-27h of the general statutes is repealed and the
457 following is substituted in lieu thereof (*Effective July 1, 2007*):

458 (a) There is established a fund to be known as the "Conservation
459 Fund" which shall be held by the Treasurer. Within the Conservation
460 Fund, there is established and created an account to be known as the
461 "conservation account". The Conservation Fund may include other
462 accounts separate and apart from the conservation account.
463 Notwithstanding any provision of the general statutes to the contrary,
464 any moneys required by law to be deposited in the Conservation Fund
465 shall be deposited therein and credited to the conservation account.
466 Any balance remaining in the fund at the end of any fiscal year shall be
467 carried forward in the conservation account for the fiscal year next
468 succeeding. The conservation account shall be used by the Department
469 of Environmental Protection for the administration of the central office
470 and conservation and preservation programs authorized by the
471 general statutes.

472 (b) Notwithstanding any provision of the general statutes, (1) on
473 and after June 1, 1990, (A) the amount of any fee received by the
474 Department of Environmental Protection which is attributable to the
475 establishment of a new fee or the increase of an existing fee pursuant
476 to the provisions of title 23 or 26, and (B) any fees paid to the
477 department, pursuant to said titles, which are in excess of the total fees
478 paid to the department pursuant to said titles for the fiscal year ending
479 June 30, 1989, shall be deposited directly into the fund established by
480 subsection (a) of this section and credited to the conservation account.
481 The Commissioner of Environmental Protection shall certify to the
482 Treasurer, with respect to each such fee received on and after June 1,
483 1990, the amount of such fee which shall be credited to the General

484 Fund and the amount of such fee which shall be credited to the
485 conservation account, and (2) on and after July 1, 2005, all fees
486 collected by the department pursuant to title 23 for parking,
487 admission, boat launching, camping and other recreational uses of
488 state parks, forests, boat launches and other state facilities shall be
489 deposited into the Conservation Fund and credited to the conservation
490 account established by subsection (a) of this section.

491 (c) There is established an account known as the maintenance,
492 repair and improvement account. Said account shall be an account of
493 the Conservation Fund. All moneys collected from any rent paid by
494 any person occupying or otherwise using any property in the custody
495 and control of the Commissioner of Environmental Protection,
496 including houses or other buildings, shall be deposited into the
497 account unless the commissioner enters into a written agreement, signs
498 an instrument or issues a license which specifically states otherwise.
499 Said account may also receive moneys from private or public sources,
500 or from the federal government or a municipal government.
501 Notwithstanding any other provision of the general statutes or any
502 regulation adopted thereunder, any moneys deposited into the account
503 shall be deposited in the Conservation Fund and credited to the
504 maintenance, repair and improvement account. Any balance
505 remaining in the account at the end of any fiscal year shall be carried
506 forward in the account for the fiscal year next succeeding. The account
507 shall be available to the Commissioner of Environmental Protection for
508 maintaining, making improvements to, erecting structures on, or
509 repairing any property in the custody and control of the Commissioner
510 of Environmental Protection, including houses and other buildings.
511 Nothing in this section shall prevent the commissioner from obtaining
512 or using funds from sources other than the account, for maintaining,
513 making improvements to, erecting structures on, or repairing any
514 property in the custody and control of said commissioner, including
515 houses and other buildings.

516 (d) There is established an account known as the invasive species
517 protection conservation account, which shall be a separate, nonlapsing

518 account within the Conservation Fund. Said account shall contain any
 519 moneys required by law to be deposited therein. Moneys in the
 520 account shall be expended by the Commissioner of Environmental
 521 Protection for the purposes of controlling invasive plants, including,
 522 but not limited to, employing an invasive plant coordinator,
 523 developing an early detection and rapid response policy, educating the
 524 public regarding invasive plants, funding Department of Agriculture
 525 and Connecticut Agricultural Experiment Station inspectors and
 526 making grants to municipalities for the control of invasive plants on
 527 publicly accessible land and waters.

This act shall take effect as follows and shall amend the following sections:

| | | |
|-----------|------------------------|---------------|
| Section 1 | <i>July 1, 2007</i> | 22a-449o |
| Sec. 2 | <i>October 1, 2007</i> | New section |
| Sec. 3 | <i>from passage</i> | 22a-471(a)(1) |
| Sec. 4 | <i>October 1, 2007</i> | 22a-361(d) |
| Sec. 5 | <i>October 1, 2007</i> | 22a-361(e) |
| Sec. 6 | <i>July 1, 2007</i> | 22-84 |
| Sec. 7 | <i>July 1, 2007</i> | 22-344(e) |
| Sec. 8 | <i>July 1, 2007</i> | 22a-381d |
| Sec. 9 | <i>October 1, 2007</i> | 22a-381c |
| Sec. 10 | <i>July 1, 2007</i> | 22a-27h |

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 08 \$ | FY 09 \$ |
|--|---------------------|-----------------|-----------------|
| Department of Environmental Protection | Various - See Below | See Below | See Below |
| Department of Agriculture | Various - See Below | See Below | See Below |
| Ag. Experiment Station | Various - See Below | See Below | See Below |

Municipal Impact:

| Municipalities | Effect | FY 08 \$ | FY 09 \$ |
|------------------------|---------------|-------------------|-------------------|
| Various Municipalities | Cost | Potential Minimal | Potential Minimal |
| Various Municipalities | Revenue Gain | Potential | Potential |

Explanation

The bill modifies what is included in the new requirements and definitions for installation of commercial underground storage tank systems. It is anticipated that any municipality that would need to install and maintain a new system would incur costs of approximately \$2,000. However, the potential costs would be minor compared to any potential remediation costs that might be incurred due to lack of upgrading a system.

It is anticipated that any workload increase or costs incurred to the Department of Environmental Protection (DEP) due to the issuance of a license for a demonstration project will be offset by the required fee which would be deposited into the Environmental Quality Fund.

Expanding the Commissioner of the DEP's authority to provide for

short term potable water to health care, child care or elder care institutions or facilities potentially expands the use of the Emergency Spill Response account and is not anticipated to have a significant impact to the account. The account is funded by a portion of the petroleum products gross earnings tax. The Appropriations Act, sHB 7077, as favorably reported by the Appropriations Committee provides that for the fiscal year, ending June 30, 2008 and the fiscal year ending June 30, 2009, the sum of \$12,500,000 be deposited into the account.

Any revenue loss due to the waiver of the sand and gravel fee by the DEP is anticipated to be minimal based on current practice.

Repealing the law exempting the placement, maintenance or removal of certain aquaculture structures and marking buoys from DEP permit or certificates, pending issuance of general permits will clarify procedure and eliminate a conflicting process. The Department of Agriculture regulates these structures and buoys under another statute.

The bill creates an invasive species protection conservation account within the DEP's Conservation Fund, to be used to administer the invasive plants program. Funds in the amount of \$500,000 are provided to the DEP in both FY 08 and FY 09 for the invasive plants program in the Appropriations Act, as favorably reported by the Appropriations Committee. The funds provide the resources necessary to DEP, DOAG, and the Connecticut Agricultural Experiment Station, to carry out the duties of the invasive plants program. In addition, municipalities that are recipients of grants for the control of invasive plants on publicly accessible land and waters would incur a revenue gain.

Few additional violations are anticipated as a result of violating the invasive plant laws; consequently any revenue gain would be minimal. It is already an infraction to violate the invasive plant laws.

House "A" adds the provisions concerning invasive plants and the associated fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 7125 (as amended by House "A")******AN ACT CONCERNING UNDERGROUND STORAGE TANKS,
DEMONSTRATION PROJECTS, AQUACULTURE STRUCTURES
AND SAND REMOVAL.*****SUMMARY:**

This bill reinstates a ban on municipal ordinances on the retail sale and purchase of invasive plants, allows invasive plants to be moved for specific purposes, creates an account to fund invasive plant control, specifies that a violation of the invasive plant law is an infraction, and makes other changes to the invasive plants program.

It also (1) expands the authority of the Department of Environmental Protection's (DEP) by allowing it to temporarily provide potable water to health, child, and elder care facilities whose drinking water is polluted; (2) tightens requirements for the installation, repair, and operation of commercial underground storage tanks; (3) authorizes DEP to license solid waste demonstration projects; and (4) repeals a law on aquaculture structures; and (5) allows the commissioner to waive a sand and gravel excavation fee.

*House Amendment "A" adds the invasive plants provisions.

EFFECTIVE DATE: July 1, 2007, except for the provisions on solid waste demonstration projects, aquaculture structures, sand and gravel fees, and state agency invasive plant purchases, which are effective October 1, 2007; and the provision concerning potable drinking water, which takes effect upon passage.

INVASIVE PLANTS***Ban on Municipal Ordinances***

A ban on the adoption of municipal ordinances on the retail sale or purchase of invasive plants expired October 1, 2005. The bill reinstates this ban, starting July 1, 2007, through October 1, 2012. During that time no municipality may adopt an ordinance on retail sale or purchase of invasive plants that takes effect before October 1, 2011. But a municipality may adopt an ordinance that takes effect on or after October 1, 2011 during that time.

Moving Invasive Plants

Current law bars people from importing, moving, selling, buying, transplanting, cultivating, or distributing any of 81 invasive plants. The bill removes water lettuce (*Pistia stratiotes*) from the list of invasive plants and allows people to move any of the remaining 80 invasive plants (1) to eradicate them or (2) for research or educational purposes. It allows people to cultivate an invasive plant for research purposes. It also bars anyone from moving (except for eradication, research, or educational purposes) importing, selling, transplanting, buying, cultivating (except for research purposes) or distributing any of the reproductive portions of a listed invasive species, including seeds, flowers, roots, and tubers, regardless of any municipal ordinance to the contrary.

Making a Violation an Infraction

By law, a person who moves, imports, sells, buys, transplants, cultivates, or distributes an invasive plant in violation of the law must be fined up to \$100 per plant. The bill specifies that such a violation is an infraction. An infraction is not a crime; thus violators do not have criminal records and can pay the fine by mail without appearing in court.

Ban on State Agency Purchase of Invasive Plants

The law prohibits state agencies, departments and institutions, from buying an invasive or potentially invasive plant, except to honor a state contract in effect when a plant is listed as invasive or potentially invasive. But state agencies may transport these plants for educational or research purposes. The bill allows these agencies to also transport

the plants to eradicate them. It applies this provision, as well as those in existing law, to agents of the state agencies, departments and institutions.

Invasive Species Protection Conservation Account

The bill creates an Invasive Species Protection Conservation Account as a separate, nonlapsing account in the Conservation Fund to contain any money the law requires. The DEP commissioner must use money from the fund to control invasive plants, including hiring an invasive plant coordinator, developing an early detection and rapid response policy, educating the public about invasive plants, funding agriculture department and Connecticut Agricultural Experiment Station inspectors, and making grants to municipalities to control invasive plants on publicly accessible land and waters.

Inspection for Violations of Invasive Plant Laws

The bill authorizes the Connecticut Agricultural Experiment Station director to inspect nurseries and nursery stock for violations of the invasive plant laws. By law, the director may prohibit or regulate the transportation of plants and plant material liable to carry dangerous pests, and enforce other provisions of the law concerning plant and insect disease and infestation. The bill also authorizes the agriculture commissioner to inspect pet shops for violations of the invasive plant laws. By law, the commissioner may issue orders he finds necessary to correct unsatisfactory conditions.

PROVISION OF POTABLE DRINKING WATER

Under current law, the DEP commissioner may arrange for the provision of potable water to homes and schools affected by groundwater pollution as funds from the emergency spill response account allow. The bill allows the commissioner to also provide potable water to health care, child care, or elder care facilities or institutions affected by such pollution. As under existing law, she may provide the water until (1) she issues an order requiring the provision of a short-term supply, and the recipient of the order complies; or (2) a long-term water supply is established.

By law, the commissioner may order a municipality to temporarily provide potable water to homes and schools if (1) the person or municipality responsible for groundwater pollution is not known or (2) the responsible party is financially unable to provide potable water. The bill authorizes the commissioner in such cases to also order a municipality to provide potable water to health care, child care, or elder care facilities or institutions affected by the pollution.

UNDERGROUND STORAGE TANKS

Starting January 1, 2008, the bill (1) bars people, firms, or municipalities from installing or operating commercial underground storage tank systems unless they are equipped with liquid-tight and vapor-tight sumps with electronic leak detectors and dispenser pans, or other comparable underdispenser spill containment with electronic leak detectors and (2) requires people or municipalities repairing a system's containment sump, dispenser, or underdispenser to its operating condition to install such equipment.

By law, an underground storage tank system comprises the tank and any associated ancillary equipment and containment system. The bill specifies that associated equipment and system includes satellite piping, containment sumps, dispensers, and dispenser pans or other comparable underdispenser spill containment.

SOLID WASTE DEMONSTRATION PROJECTS

The bill allows the commissioner to issue a license for a solid waste demonstration project upon finding it (1) is necessary to research, develop, or promote methods and technologies of solid waste management consistent with the goals of the state's solid waste management plan; (2) does not pose a significant human health or environmental risk; and (3) is not inconsistent with the federal Water Pollution Control, Rivers and Harbors, Clean Air, or Resource Conservation and Recovery acts.

License applicants must (1) apply on a form the commissioner prescribes, (2) provide the information the commissioner deems

necessary, and (3) pay a \$1,000 application fee. They cannot start the project until they get the commissioner's written approval.

The commissioner may impose conditions to protect human health and the environment or to ensure a project's success. A license is valid for two years, but the commissioner may renew it, apparently for an additional three years. The commissioner may suspend the license according to law. Under the bill, anyone may seek, or the commissioner may require, that a demonstration project also obtain a solid waste permit.

AQUACULTURE PERMITS

The bill repeals a law exempting the placement, maintenance, or removal of certain aquaculture structures and marking buoys from DEP permit or certificate requirements, pending issuance of a general permit. The Agriculture Department regulates these structures and buoys under another law unaffected by this bill.

SAND AND GRAVEL

By law, anyone who removes sand, gravel, or other material waterward of the mean high water mark of the state's tidal, coastal, or navigable waters for sale or use in construction, aggregate, fill, or landscaping must pay the state \$4 per cubic yard. The bill allows the commissioner to waive the fee if the sand, gravel, or other material used for such purposes has been decontaminated or processed to meet applicable environmental standards for reuse.

BACKGROUND

Invasive Plants

To be considered invasive, a plant must be non-indigenous to the state; have the potential to grow here without cultivation and to disperse rapidly and widely; out compete other species in the same natural plant community and meet other criteria.

Agriculture Shellfish Permitting

By law, the Agriculture Department has exclusive authority to grant

or deny aquaculture permits, except in matters specifically concerning water discharges from aquaculture operations, which require DEP approval.

Federal Environmental Laws

The Water Pollution Control, Rivers and Harbors, Clean Air, and Resource Conservation and Recovery acts regulate the discharge of pollutants; the construction of bridges, dams, and dikes; air pollution; and waste management, respectively.

Legislative History

The House referred the bill (File 173) to the Planning and Development Committee, which reported the substitute eliminating a provision barring municipalities from assigning the duties of an inland wetland agency to planning, zoning, or planning and zoning commissions.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 22 Nay 7 (03/12/2007)

Planning and Development Committee

Joint Favorable Substitute

Yea 18 Nay 0 (04/04/2007)

Public Health Committee

Joint Favorable

Yea 27 Nay 0 (05/01/2007)